

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF VIRGINIA  
3 6:13-cr-00003-NKM-18

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5 UNITED STATES OF AMERICA,  
6 Plaintiff,  
7 vs.  
8 LES CHRISTOPHER BURNS,  
9 Defendant.

10 \*\*\*\*\*

11  
12 Hearing before  
13 The Honorable Norman K. Moon  
14 9:32 a.m. - 10:48 a.m.  
15 April 25, 2013  
16 Lynchburg, Virginia  
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24 Job No. 21851

25 REPORTED BY: Darlene Joy Owings, Court Reporter

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1 (Commencing at 9:32 a.m., February 25, 2013)

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3

P R O C E E D I N G S

4

THE COURT: Good morning.

5

MR. GRIMES: Good morning, Your Honor.

6

MS. NEESE: Good morning, Your Honor.

7

THE COURT: Call the case, please.

8

CLERK: Yes, sir. This is Criminal

9

Action Number 6-13-cr-3, United States of

10

America versus Les Christopher Burns,

11

Defendant Number 18.

12

THE COURT: Is the Government ready?

13

MS. NEESE: We are, Your Honor.

14

THE COURT: Is the Defendant ready?

15

MR. GRIMES: Yes, sir, Your Honor.

16

THE COURT: All right. I guess we're

17

here on your motion, then.

18

MR. GRIMES: Yes, Your Honor.

19

THE COURT: You may proceed.

20

MR. GRIMES: Your Honor, we begin by

21

giving the Court some historical background.

22

THE COURT: Okay. Let me say, I have

23

reviewed the transcript of the Magistrate's

24

hearing.

25

MR. GRIMES: Thank you, Your Honor.

1                   Let me tender to the Court six  
2 documents, which we'll ask to be marked  
3 Exhibits 1 through 6 for today's hearing.

4                   (Whereupon, Defendant's Exhibit Numbers  
5 1 through 6 were marked and received in  
6 evidence.)

7                   MR. GRIMES: All right. By way of  
8 historical background, Your Honor, in October  
9 of 2012, Les Christopher Burns, who you will  
10 see referred to in the paperwork from time to  
11 time as Chris Burns or Chris, was pulled over  
12 by the Bedford County authorities for a  
13 routine traffic violation. And in his vehicle  
14 was found certain prescription drugs.

15                  And after some conversations with the  
16 authorities in Bedford County, he began  
17 working as a controlled informant for the  
18 Government involved in sales and buys of  
19 prescriptions drugs over a period of months,  
20 until shortly before the indictment was  
21 returned against him in March of 2013. His  
22 handler or the officer in charge of Mr. Burns  
23 was Investigator Cook with the Bedford County  
24 Sheriff's Department.

25                  On October 4th of 2012, husband and

1 wife, Bryant and Danielle Reynolds were  
2 indicted in Case Number 6:12-cr-00031, with  
3 conspiracy to distribute methamphetamine. For  
4 today's hearing, Your Honor, that will be  
5 Exhibit 1. I've handed the Court a copy of  
6 the indictment, which the Clerk has before  
7 her. This, of course, is also a matter of  
8 public record, being part of the docket in a  
9 related proceeding before this Court.

10 Then on December 20, 2012, Burns, as a  
11 cooperating witness, was called to testify  
12 before the grand jury. We have his grand jury  
13 testimony, which will be Exhibit 4 for today's  
14 hearing. And was questioned by the Assistant  
15 United States Attorney, Ashley Neese, about  
16 his involvement with the buys and sells of  
17 drugs while working as an informant for the  
18 Government.

19 And if the Court looks on Page 3 of  
20 that transcript, Ms. Neese told Mr. Burns, and  
21 I'm quoting now: "You are not a target of the  
22 investigation. If you were a target of the  
23 investigation, we would notify you that you  
24 are a target of an investigation. And if you  
25 are qualified, then you receive

1 court-appointed counsel. Do you understand  
2 that?"

3 Mr. Burns was unrepresented at that  
4 first testimony before the grand jury on  
5 December 20th of 2012. He continues to work  
6 as an informant for the Government.

7 Moving forward in time to January 17 of  
8 2013, the same people indicted in Case Number  
9 6:12-cr-00031, that is Bryant and Danielle  
10 Reynolds, were indicted, along with eight  
11 others, this time for a second conspiracy.  
12 That is a conspiracy to distribute certain  
13 Schedule 1, 2 and 3 controlled narcotics.  
14 They're listed in the indictment. Which  
15 simply, for the convenience of the record, I  
16 offer as Exhibit 2 with respect to today's  
17 hearing. You'll see there, among the  
18 defendants, are Bryant and Danielle Reynolds,  
19 along with eight others persons, who were  
20 named there.

21 Again moving forward in time, Burns is  
22 called a second time to testify before the  
23 grand jury on February 21, 2013. That  
24 transcript, again, is tendered for the record.  
25 And that will be Exhibit 5. Incidentally,

1 when he testified first before the grand jury  
2 in December of 2012, he told the grand jury  
3 that he had had a problem with the use of  
4 prescription drugs for a number of years. All  
5 of that is a matter of record in his grand  
6 jury testimony.

7 All right. Back to where I was.  
8 February 21, 2013, Burns testifies before the  
9 grand jury a second time. Now, he never  
10 received the target letter, as the U.S.  
11 Attorney said he would receive when he  
12 testified in December. And it becomes  
13 apparent when you read that grand jury  
14 testimony, that he is now a target of the  
15 investigation. And things went south between  
16 him and Investigator Cook for reasons that  
17 will become apparent; probably not today, but  
18 a later point during these proceedings.

19 Anyway, he testifies without counsel;  
20 no retained counsel, no court-appointed  
21 counsel before the grand jury on December 21,  
22 2013. Readily apparent that he's now a  
23 target.

24 So moving forward in time, one month  
25 later to the day, March 21, 2013, a



1 superceding indictment is filed in our case  
2 6:13-cr-00003, which again, just for  
3 convenience, I've filed with the Court,  
4 Exhibit 3, for the purpose of today's hearing.  
5 And if you take a look at that indictment,  
6 that superceding indictment, you'll see that  
7 Burns now has been added as the last defendant  
8 on the first page of the indictment. And if  
9 you turn to Count 22, you'll see that a  
10 subsequent count has now been added against  
11 Burns, which alleges on or about March 8,  
12 2013, Mr. Burns distributed Suboxone, which is  
13 a Schedule 3 controlled substance.

14 Your Honor, as you have read the  
15 transcript of the detention hearing before  
16 Judge Ballou, you'll see that the United  
17 States says, that's a drug that people take to  
18 come down off of other drugs, to help them get  
19 off of other drugs. And at that hearing,  
20 Ms. Neese testified -- said, we just couldn't  
21 trust him anymore.

22 And so, then if you'll compare the  
23 first and second indictment, you'll see that  
24 the offense dates in the first indictment say  
25 in Paragraph 1, that the conspiracy began in

1 or about 2009, and continued to on or about  
2 December 20, 2012. Your Honor, December 20,  
3 2012, is when Burns testified before the grand  
4 jury the first time.

5 Now if you'll look at the superceding  
6 indictment, again, referring to Paragraph 1.  
7 Now it says that the date of the conspiracy is  
8 on or about 2009, continuing to on or about  
9 March 8, 2013, which is the offense date for  
10 the alleged distribution of Suboxone in Count  
11 22 of the superceding indictment.

12 So, in other words, according to the  
13 United States, the last day of the conspiracy  
14 in the superceding indictment is the date Mr.  
15 Burns was alleged to have distributed Suboxone  
16 to somebody.

17 All right. Coming forward in time  
18 again, there will be allegations that  
19 Mr. Burns had some cameras in his home, was  
20 recording the drug transactions he was  
21 involved in working for the Government. And  
22 there was a break-in at his house. There's an  
23 allegation that, while he and his wife were at  
24 Myrtle Beach around Valentine's Day in 2013,  
25 someone broke into their house and stole a

1 number of computer disks. I'll call them hard  
2 drives. Anyway, some sort of computer memory  
3 that was on the camera that was recording  
4 things.

5 There's also an allegation that, at  
6 some point, Mr. Burns and Mr. Cook did not  
7 trust each other. Mr. Burns began recording  
8 conversations with Investigator Cook. And  
9 that disk is now missing as well. There's an  
10 allegation that it was stolen.

11 A search warrant was issued by Bedford  
12 County. Remember that Investigator Cook of  
13 Bedford County is Mr. Burns' handler with  
14 respect to his work as a controlled informant.

15 So on March 26, 2013, a search warrant  
16 was issued by Bedford County. The search  
17 warrant and return is Exhibit 6 in your packet  
18 of materials.

19 Your Honor, turning to the transcript  
20 which the Court has read, Investigator Cook  
21 testified at that hearing, and I'm referring  
22 specifically to Page 7, that certain needles,  
23 and he called them empty bags of heroin, they  
24 were really just plastic bags, were found  
25 within the residence. Here's the questioning

1 on Page 7 of the hearing before Judge Ballou.  
2 And this, for the record, was -- the date of  
3 this is March 28, 2013, Line 6.

4 Question: "And what happened there?"

5 Answer, this is Investigator Cook  
6 speaking: "During the search of the  
7 residence, empty heroin bags and needles were  
8 seized within the residence."

9 Dropping down to Line 15.

10 "And these were found in the same  
11 residence that they live in."

12 "They" would be Mr. Burns; his wife,  
13 who's in the courtroom, and their two  
14 children.

15 Answer: "That's correct."

16 That fact was important to Judge  
17 Ballou. Turning to his ruling on Page 25,  
18 what he says is, and I'm quoting again: "The  
19 allegation that I believe that frankly carry  
20 the day for me, are the fact that you live at  
21 home with your two young daughters; there are  
22 needles that are found in your house; and  
23 there's no reason, no evidence, as to why  
24 needles should be in your house at this point  
25 in time."

1                   So, Investigator Cook testified that,  
2                   pursuant to the execution of the search  
3                   warrant, needles were found in the house. And  
4                   Judge Ballou found that fact to believe  
5                   dispositive.

6                   The problem with that fact is, it was  
7                   never true. It was never true. There were no  
8                   needles found in the house. There will be  
9                   some evidence of that today.

10                  But if you look at the search  
11                  inventory, which we did not have at the last  
12                  hearing. I had just been appointed to  
13                  represent Mr. Burns. Turning to the  
14                  inventory, which is several pages back, toward  
15                  the end, to make a long story short, the  
16                  needles were found in an outbuilding. The  
17                  first item in the inventory says, hypodermic  
18                  needle recovered under driver's seat, white  
19                  Mazda Miata. In a garage, in an outbuilding,  
20                  there was a needle found in a car, in the  
21                  garage, which was separate from the house.

22                  Also in that car, and this is Item 2 in  
23                  the inventory, one spoon with white residue  
24                  was found in the Miata as well, that's Item 2,  
25                  in the garage.

1 And flipping the page, Your Honor, to  
2 Item 16, it says that multiple needles were  
3 found in an outbuilding behind -- and I can't  
4 read part of it -- behind something center.  
5 Anyway, you had to climb a ladder. It was up  
6 on a shelf somewhere. Some needles were found  
7 as well.

8 I'll tell the Court also that on  
9 cross-examination of Investigator Cook, he  
10 conceded there was no heroin in the house.  
11 What he described as empty bags of heroin were  
12 just plastic bags. That's what they were.

13 But that evidence was important to  
14 Judge Ballou when making his ruling of --

15 THE COURT: Let me ask you this; is  
16 this just a review of Judge Ballou's ruling,  
17 or is it a de novo ruling?

18 MR. GRIMES: Yes, Your Honor, it is de  
19 novo. But I've given an opening statement  
20 with the historical background. And that  
21 brings us to where we are; that brings us now  
22 to the presentation of the evidence.

23 And now the Government will put on its  
24 case. But that's the opening statement, Your  
25 Honor. Thank you.

1 THE COURT: All right. Thank you, sir.

2 MS. NEESE: Your Honor, I'm going to  
3 make an opening statement to rebut what has  
4 been stated, and also present our opening as  
5 to the factors under 3142 that shows that  
6 Mr. Burns is a danger to society.

7 First, I'm confused by Mr. Grimes'  
8 argument to begin with, the first section of  
9 this with his chart that he had laid out,  
10 because I think this is a detention hearing.  
11 There are certain factors that need to be set  
12 forth. But he's stating things regarding  
13 whether or not he was a witness at a certain  
14 time in this investigation, or whether or not  
15 he became a target.

16 The United States Attorney's Office, if  
17 they deem someone a target, before they indict  
18 them, will issue a target letter. They do not  
19 have to issue a target letter. They will then  
20 indict them and then they're notified once  
21 they're arrested that they're a  
22 target/defendant.

23 At the time Mr. Burns testified on  
24 December 20th of 2012, this has been an  
25 ongoing investigation. We had put at least 70

1 witnesses into grand jury. He was not deemed  
2 a target. He was a witness. If you read the  
3 transcript, at no point in time was he ever  
4 asked about his distributions, if I remember  
5 correctly. I don't think he was asked at all  
6 about his own distributions.

7 It became apparent once this went on,  
8 and the investigation continued, that he was a  
9 large distributor. And he had distributed to  
10 numerous individuals. That was never asked in  
11 the grand jury transcript of December 20th of  
12 2012. Not that he had to notify him at that  
13 point in time, it was just --

14 THE COURT: Well, you couldn't tell  
15 him, "You're not a target," to encourage him  
16 to talk about it.

17 MS. NEESE: At that point in time, he  
18 had chosen to be a confidential informant. He  
19 had been caught back in October or  
20 September of 2012 with prescription medication  
21 for which he didn't have prescriptions for.

22 Then he was asked by Bedford City, not  
23 Bedford County, whether or not he wanted to  
24 work; try to work off his charges, which were  
25 state, potential state charges at the time.



1           Mr. Burns, at that time said, yeah, he  
2           wanted to work. So a Bedford City officer  
3           took it to Vice in Bedford County and said,  
4           "Mr. Burns would like to try to work for you."

5           At no point in time, by any of the Vice  
6           Detectives, anybody from Bedford County,  
7           anybody from ATF, anybody from DEA was  
8           Mr. Burns ever notified that he was not going  
9           to be charged either on the state level or on  
10          the federal level. He was not notified of  
11          that in grand jury. He was not notified of  
12          that in any witness interviews. And he was  
13          not notified of that, at any point in time,  
14          since then.

15          Then you come up to the grand jury  
16          testimony. Yes, he was notified at that time  
17          that he was a witness. But we only asked him  
18          about things, whether or not he bought pills  
19          and used them himself, at that point in time,  
20          which does not put him in a conspiracy to  
21          distribute pills.

22          Later, as we continued to find out  
23          through numerous other witnesses, he was  
24          actually one of the distributors. He was one  
25          injecting other people with pills, including a

1 minor, who was 16 at the time, and knowingly  
2 did that.

3 These types of evidence that we were  
4 not privy to at the time of December 20th,  
5 does not mean that just because he wasn't  
6 notified he was a target that day, that he  
7 couldn't have testified before the grand jury.  
8 Because at that point in time, we thought he  
9 was still a cooperating, confidential  
10 informant.

11 However, things, as Mr. Grimes has  
12 said, changed. Because at certain points in  
13 times, we have at least two or three other  
14 witnesses who've stated that Mr. Burns told  
15 them, and I'm not going to quote it, but  
16 basically a curse word and stated, "I'm  
17 playing both sides. I'm still doing one  
18 thing; and they think I'm working for them as  
19 well."

20 So at some point in time, he was cut  
21 off as being a CI. We continued to put  
22 additional witnesses into grand jury. And  
23 honestly, Your Honor, at no point in time,  
24 does the Government sit there and rank -- if  
25 you'll look at the superceding indictment.

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1 regarding Scotty Andrews or Jenny Kirsey (ph).

2 Additionally, Your Honor, these  
3 allegations about things that were -- when he  
4 was working, whether there were recordings or  
5 not, if there were any recordings made between  
6 Investigator Cook and Mr. Burns, by Mr. Burns,  
7 they're allegedly now missing. Just like  
8 allegedly the State that was in his house is  
9 missing, and the firearm that was in there,  
10 and \$1,800 is missing. But the evidence  
11 doesn't quite all add up.

12 When it comes down to it, after  
13 everything we've put together, we, as the  
14 United States Attorney's Office who makes  
15 charging decisions, presented an indictment  
16 with numerous witnesses who testified against  
17 Mr. Burns.

18 I mean, I feel like we're here on just  
19 the detention issue, but I'm talking about  
20 things that, if he's trying to ask for a  
21 motion to dismiss the indictment, that, I  
22 think, would be a another hearing.

23 Regarding the actual conditions that  
24 need to be imposed or that should go through,  
25 be gone through by the Court under 3142, we

1 submit that there's no condition or  
2 combination of conditions that would  
3 reasonably assure the safety of the community  
4 regarding Mr. Burns. And I'm going to tell  
5 you why. First, this is a presumption case  
6 under 3142 (e).

7 There has already been probable cause  
8 to determine that he was part of a drug  
9 trafficking conspiracy. And thus, once that  
10 happened, the burden then shifts to the  
11 defendant.

12 We also have additional evidence that  
13 we're going to put forth. And we've already  
14 put forth some of that evidence before Judge  
15 Ballou back on March 28th.

16 When you go through the factors under  
17 3142 (g), I'm going to go through the nature  
18 and the circumstance of the offense charged.  
19 It was a conspiracy to distribute certain  
20 controlled substances. And it lasted at least  
21 three to four years in this instance. It  
22 probably lasted longer than that. But  
23 regarding Mr. Burns, we've got that to at  
24 least 2010, up until March 8th of 2013, well  
25 after he knew that the federal government had

1 already charged numerous individuals in this  
2 case.

3 Then you've got the weight of the  
4 evidence against the defendant. The  
5 government submits that the weight of the  
6 evidence is very strong, because after he was  
7 arrested, he waived his Miranda rights and  
8 provided a confession. Not only did he  
9 provide a confession; we have at least eight  
10 to ten or more witnesses who have testified  
11 against him in grand jury, and we have a  
12 recorded phone call and recorded buy, in which  
13 he was aiding and abetting in the distribution  
14 of Suboxone. Yes, is Suboxone a pill that is  
15 prescribed to people -- when it's prescribed  
16 and used by mouth, is it something to help  
17 them come off of other drugs? Yes. But not  
18 when it's broken down, Your Honor. Not when  
19 it's broken down and either snorted or  
20 injected. It has a different effect. An  
21 effect that other drug users will tell you;  
22 they're using this pill on the street to get  
23 high. So it's not the same because he wasn't  
24 using it the way -- by mouth and through what  
25 a doctor would lawfully prescribe in that

1 situation.

2 Additionally, you're going to look at  
3 the history and characteristics of the  
4 defendant. His character in general. If his  
5 wife takes the stand today, she's going to be  
6 questioned because she was questioned back on  
7 March 28th. And she's most likely going to  
8 have to say, "Yes, he lied to her before."  
9 Numerous other witnesses have said he's lied.  
10 And he's lied to the cops numerous times.

11 Additionally, he's a drug abuser, a  
12 self-admitted drug abuser, and a self-admitted  
13 distributor of controlled substances.

14 His employment, although he does have  
15 employment and he works for himself  
16 essentially, he picks and chooses when he goes  
17 to work. We've had surveillance conducted on  
18 him. We've known through other witnesses  
19 who -- other defendants essentially who have  
20 worked for him, that when he wants to go to  
21 work, he goes to work; when he doesn't, he  
22 doesn't. So whether or not he has a full-time  
23 job -- additionally, you'll see in the  
24 pretrial services report, he has \$18,000 in  
25 child support arrearages where he hasn't been

1 paying and keeping up with anything. He's a  
2 self-admitted drug user and substance abuser.

3 Additionally, right before the arrest,  
4 within a week or so, he admitted, after he was  
5 arrested, that he had distributed to at least  
6 two other individuals, and he had used with  
7 one of those individuals.

8 You're going to hear testimony that a  
9 search warrant was conducted at his house and  
10 in the outbuildings, and also in the vehicles  
11 that were on the property, which are, I think,  
12 in a garage. But the investigator is here to  
13 testify to that.

14 Now, granted, Investigator Cook was not  
15 the one who conducted the search warrant. And  
16 we weren't privy at the time of the hearing to  
17 what Mr. Grimes said, the actual items that  
18 were seized, because it hadn't been typed up,  
19 and where they were seized. He thought, based  
20 on the information he had at the time, they  
21 were seized within the house.

22 The syringes were actually seized  
23 within vehicles and in the outbuildings of the  
24 property still close to the house, and where  
25 his minor children were. Additionally, there



1 was a spoon with residue found in his bedroom.  
2 Marijuana smoking pipe found in his bedroom.  
3 It wasn't just that these items were found --

4 THE COURT: What was the residue in the  
5 spoon?

6 MS. NEESE: Where was it?

7 THE COURT: What was it?

8 MS. NEESE: We do not know at this  
9 time, Your Honor. I think, at this point in  
10 time, it might have been sent off to the lab,  
11 but based on the baggies that had -- that we  
12 had also talked about, there was not enough --  
13 I think you're going to hear testimony that  
14 there was not enough residue or anything left  
15 to actually conduct a field test, so they have  
16 to be sent off to the lab for them to be  
17 determined if it was anything.

18 But regardless, I think you're going to  
19 hear that, in the experience of the agent,  
20 that it appeared to him to be the waxed  
21 plastic baggies for heroin. Somewhere Mr.  
22 Burns had self-admitted used heroin on and off  
23 since the age of 21, I think that he -- it was  
24 consistent with his own statements.

25 Additionally, Your Honor, at the time

1           that he was doing all of these activities and  
2           things, he was on state probation. I mean,  
3           that's another factor that can be considered.  
4           The nature and seriousness of the danger to  
5           any person in the community is the last factor  
6           for this Court to consider.

7                     He's a self-admitted distributor for  
8           pills; and had been for at least two to three  
9           years. He also -- we have recordings of him  
10          distributing and aiding -- or excuse me,  
11          aiding and abetting in a distribution on  
12          March 8th of 2013, well after he was notified  
13          that all of this was going on in the federal  
14          government. And he knew what was going on.  
15          Numerous times he had known.

16                    And not only that, he had already told  
17          at least two other subjects that he was  
18          playing both sides. He was still doing his  
19          thing on the side, but he was working for the  
20          cops, too.

21                    And then finally you've got -- well,  
22          two other things. You've got him injecting a  
23          16-year-old with pills; not paying attention  
24          that, hey, she's 16. This shouldn't be  
25          happening. And also he's got two minor kids

1 in this house where he lives, where he,  
2 self-admitted, goes out to the outbuilding and  
3 uses illegal substances, not just pills, but  
4 also we have numerous other witnesses who have  
5 testified in grand jury that they've been over  
6 there and done these things while his family  
7 was home.

8 When it comes down to it, the  
9 presumption and all of the factors line in  
10 favor of the Government, and we are requesting  
11 that he remain detained.

12 THE COURT: All right. Do you want to  
13 put on evidence?

14 MS. NEESE: Yes, we'll put on evidence.

15 At this point in time, we'll call  
16 Deputy Joe Reynolds to the stand.

17  
18 DEPUTY JOE REYNOLDS,  
19 was duly sworn and testified as follows:

20 D I R E C T E X A M I N A T I O N

21 BY MS. NEESE:

22 Q. Please state your name for the record,  
23 and tell us how you are employed?

24 A. I'm Deputy Reynolds; Bedford County  
25 Sheriff's Office.

1 Q. And in your employment and position,  
2 have you had contact with Les Christopher Burns?

3 A. Yes, ma'am, I have.

4 Q. Do you know him as "Chris Burns" as  
5 well?

6 A. Yes, ma'am.

7 Q. And in your employment and position, do  
8 you work with the Vice guys very closely?

9 A. Yes, ma'am, I do.

10 Q. Including Investigator Chris Cook?

11 A. Yes, ma'am.

12 Q. Have you actually gone out and been a  
13 part of some of these drug transactions within the  
14 conspiracy?

15 A. Yes, ma'am, I have.

16 Q. Now, if you would, please, just tell  
17 us, do you know in your employment, position and  
18 through your experience, how Chris Burns became a  
19 confidential informant for Bedford County  
20 Sheriff's Office?

21 A. He was actually stopped by Officer  
22 Dryden (ph) of the Bedford Police Department. He  
23 found some -- principally, I'm not exactly sure.  
24 I know it was stuff that was illegal that he could  
25 be charged criminally with inside of his car. And

1 she, in turn, notified Bedford County because most  
2 of the work that he could do was inside of Bedford  
3 County.

4 Q. Now, did he indicate, at that point in  
5 time, that he wanted to try to cooperate to  
6 potentially help himself out?

7 A. Yes, ma'am.

8 Q. Have you talked to Officer Dryden or  
9 any other people that were with the Bedford County  
10 Sheriff's Office that -- have they stated to you  
11 whether or not he was ever told he wouldn't be  
12 charged either on the state level or the federal  
13 level?

14 A. No. I think he was just encouraged to  
15 cooperate.

16 Q. Was he ever told that he wouldn't be  
17 charged with anything?

18 A. Not to my knowledge, no, ma'am.

19 Q. Now, when going to when Mr. Burns  
20 started working, who was he assigned to?

21 A. Investigator Cook.

22 Q. Was Investigator Cook always by himself  
23 with Mr. Burns?

24 A. No. We normally cover deals with a  
25 couple of different people.

1 Q. And why is that typically?

2 A. The main reason is just officer safety.  
3 And also, believe it or not, we take a lot of  
4 interest in keeping our informants safe. So if  
5 they get into a bad situation, we want to be able  
6 to apply the necessary force to extract them from  
7 it.

8 Q. Did Mr. Burns actually act as a  
9 confidential informant and make controlled buys?

10 A. It's my understanding he did, yes,  
11 ma'am.

12 Q. And that was regarding the Bedford City  
13 stop?

14 A. Yes, ma'am.

15 Q. Now, was there a point in time, I  
16 guess, that the relationship started dissolving  
17 between Mr. Burns and the Bedford County Office?

18 A. Yeah. I think -- I don't know all the  
19 details of what caused it to deteriorate, but I  
20 know traditionally when you get -- we have  
21 equipment that we use. And we're pretty familiar  
22 with how it's used.

23 And when stuff suddenly starts turning  
24 off magically, you know, recordings are turned  
25 off; or in this case, the recording device, the

1 digital recording device, the SD card that was  
2 inside of it had been removed during a drug  
3 transaction, which is -- I mean, you have to do --  
4 it's not like it falls out or anything like that.  
5 You have to remove it.

6 Q. So was it concerning to your all's  
7 office?

8 A. Yes. It's concerning when they do  
9 that. And it's also concerning when we have  
10 information. Because we don't always go on what  
11 one person says. We work multiple informants and  
12 collect multiple pieces of information that ties  
13 stuff together. And it became fairly obvious that  
14 Mr. Burns was doing -- you know, he was trying --  
15 we call it the "Lord's work." He was doing the  
16 Lord's work as a confidential informant, but he  
17 was also doing work to benefit himself, which was  
18 involving himself in drug transactions.

19 Q. Outside of being under the officer's  
20 control?

21 A. Yeah.

22 Q. And let me ask you this; in our  
23 investigation, after December 20th of 2012, were  
24 multiple witnesses called to grand jury, and start  
25 to bring out Mr. Burns' name?

1 A. Yes, ma'am.

2 Q. As being a distributor of pills?

3 A. Right.

4 Q. And did they state anything about a man  
5 named Jonathan Bohon?

6 A. Yeah. We have -- right now we have  
7 three active overdose deaths. And Mr. Bohon is  
8 one of those. He's fairly -- he's in his 20s, and  
9 overdosed. He was found deceased.

10 Q. Did any witnesses state whether or not  
11 Mr. Burns had actually shot him up the day before?

12 A. I think from what I've read with the  
13 interview with Investigator Cook, Mr. Burns  
14 actually admitted that Mr. Bohon was, I guess, so  
15 out of it, he wasn't actually able to inject  
16 himself. And as a result, Mr. Burns injected him.  
17 And that was, from his interview on the 27th, when  
18 he was arrested.

19 Q. And even before that, before he was  
20 ever arrested, did other witnesses also lead us to  
21 Mr. Burns and Mr. Bohon being together that day?

22 A. Yeah, there were several people there  
23 abusing the prescription narcotics and injecting  
24 them. Yeah, they identified Mr. Burns as being  
25 there.



1 Q. Were there other witnesses, including a  
2 16-year-old minor that were interviewed?

3 A. Yes, ma'am.

4 Q. Did they provide grand jury testimony,  
5 including that minor?

6 A. Yeah, they did. And they said that he  
7 actually injected her. I think for me, in my  
8 experience, I think one of the most troubling  
9 things about it was he actually took pleasure in  
10 that, in making the comment that he "popped her  
11 cherry" by injecting her the first time. And  
12 that, to me, was a problem.

13 Q. And regarding Mr. Burns, did you  
14 also -- during this investigation, were other  
15 people questioned about whether he was playing  
16 both sides of the fence?

17 A. Yes, ma'am. They actually -- we had  
18 people coming forward and telling us that.

19 Q. And did at least two of those testify  
20 in grand jury?

21 A. They did.

22 Q. And who were those?

23 A. I believe -- I don't have their names  
24 in front of me.

25 Q. Was one Amanda McKinney? Have you

1 spoken with her?

2 A. Yeah, we spoke to Amanda McKinney.

3 Q. Was another one Scotty Andrews?

4 A. Scott Andrews, yes, ma'am.

5 Q. Was there a point in time on  
6 February 8th of 2013, that Mr. Burns was  
7 interviewed at the Bedford County Sheriff's  
8 Department?

9 A. I'm sorry. Say that again.

10 Q. On February 8th of 2013, did  
11 Investigator Cook and Investigator Young interview  
12 Chris Burns at the Sheriff's Department?

13 A. Yes, ma'am.

14 Q. And at that point in time, was he asked  
15 to make a recorded phone call to Scotty Andrews?

16 A. He was.

17 Q. And what did Scotty Andrews say  
18 regarding that recorded phone call?

19 A. He said that he was -- they had  
20 basically worked together and talked about it  
21 ahead of time.

22 Q. For Scotty not to say anything?

23 A. Right.

24 Q. Did that concern the Bedford County  
25 Sheriff's Department?

1           A.       Well, obviously when you've got two  
2 people working together to mislead us, it was  
3 concerning, yes, ma'am.

4           Q.       Was Scotty Andrews working as a  
5 confidential informant?

6           A.       I -- no, I mean, I think he was a  
7 witness.

8           Q.       I mean, he was somebody that we were  
9 looking at, correct?

10          A.       Yeah, he was a target that we were  
11 looking at.

12          Q.       Now, going to March 8th of 2013, were  
13 you a part of that?

14          A.       No, ma'am.

15          Q.       Who all was a part of that? Do you  
16 know, was Investigator Cook?

17          A.       Investigator Cook.

18          Q.       And others?

19          A.       And other officers, yes, ma'am.

20          Q.       And what exactly happened?

21          A.       My understanding, they set up a control  
22 buy, which basically the control buy, they get  
23 with a person that's going to make the telephone  
24 call. They made a recorded phone call. CI called  
25 Burns. Burns actually sent another individual to

1 make the delivery. But during the recorded phone  
2 call, the CI in the verbal transaction, they  
3 said -- they told Mr. Burns they appreciated him  
4 setting the deal up for them.

5 Q. And was the deal actually conducted?

6 A. It was.

7 Q. Was the phone call recorded?

8 A. It was.

9 Q. Was the deal recorded?

10 A. It was.

11 Q. And then, after that point in time, was  
12 that charge included as one of the substantive  
13 counts within the indictment?

14 A. It was.

15 Q. Regarding the superceding indictment,  
16 did you all conduct arrests following it?

17 A. Are you talking about on the 27th?

18 Q. Yes.

19 A. Yes, we did.

20 Q. And was one of those individuals  
21 arrested Mr. Burns?

22 A. It was.

23 Q. Did he waive his rights and -- or was  
24 he provided with his Miranda rights?

25 A. He was, by Investigator Cook.

1 Q. Did he waive his rights?

2 A. He did. He actually was the one  
3 that -- kind of two things going on at that time.  
4 One was the state search warrant in reference to  
5 his insurance fraud. We actually had an informant  
6 come forward and say that he bragged about the  
7 fact that he had said that the stuff was stolen,  
8 filed a police report. And then they were able to  
9 give us details about -- they said he was behind  
10 on his bills, how he spent the money and how he  
11 actually bought some heroin with it later.

12 Q. And was that insurance fraud related to  
13 our case in any way?

14 A. No. The only thing that I was  
15 interested in and the reason I wrote the search  
16 warrant is he, obviously, is a convicted felon. I  
17 mean, we were looking at him as a possible  
18 defendant in the federal case. And obviously, he  
19 said the file was stolen. And we wanted to see if  
20 he filed the false report and left the gun still  
21 in the house.

22 Q. That's a state search warrant,  
23 unrelated to this case?

24 A. That's correct.

25 Q. Now, at the time he was arrested, what

1 was your role?

2 A. I actually secured the search warrant  
3 and executed the search warrant at the house.

4 Q. And were other individuals with you?

5 A. There were.

6 Q. And then what was Investigator Cook's  
7 role?

8 A. He actually went back with Mr. Burns  
9 and interviewed him at the Sheriff's Office.

10 Q. So he advised him of his rights?

11 A. Right.

12 Q. And Mr. Burns waived his rights,  
13 correct?

14 A. Yes, ma'am.

15 Q. And I know you already testified about  
16 that. Sorry.

17 What did Mr. Burns state during his  
18 interview?

19 A. He stated a lot of stuff. What do you  
20 want me to talk about?

21 Q. Was it a lengthy interview?

22 A. It was.

23 Q. Did he admit to being a drug user?

24 A. He did.

25 Q. For how long, approximately?

1 A. Since he was 21.

2 Q. Was that approximately ten years or so?

3 A. (Witness nods head.)

4 Q. Did he admit that he had dealings with  
5 Bryant Reynolds?

6 A. He did.

7 Q. Did he admit he had dealings with  
8 Scotty Andrews?

9 A. He did. He said he bought about 50  
10 times from him.

11 Q. Did he also admit that he was a  
12 distributor of pills?

13 A. Yes, ma'am. I think he provided us a  
14 list of people he sold to. I think it was ten  
15 people.

16 Q. Okay. And would you go through some of  
17 those people?

18 A. It's Kevin Jesse, who was there when  
19 Bohon died, just to give you a little perspective.  
20 Scotty Andrews; Brandon Turpin, who was also there  
21 when Mr. Bohon died; Amanda McKinney; Jesse  
22 Kirsey; Jenny Kirsey; Matt Giles; Tim Goodman.

23 Q. Did any of those individuals, have they  
24 now either cooperated and/or testified against Mr.  
25 Burns?

1 A. They have.

2 Q. Did Mr. Burns make any statements about  
3 injecting anyone with pills?

4 A. He actually said he injected another  
5 person we weren't aware of, which was Amanda  
6 McKinney.

7 Q. Actually --

8 A. And actually went into detail about  
9 Mr. Bohon. He actually -- and that's a key thing  
10 that we look at when we interview people is the  
11 detail they can provide. And he provided a lot of  
12 detail as far as where his whereabouts were. He  
13 was in Blacksburg. He said Bohon -- and just laid  
14 the groundwork as far as exactly what happened.  
15 It wasn't like a random statement, "Hey, I  
16 injected Bohon." He knew exactly what happened,  
17 which we verified by other witnesses.

18 So he -- based on what he told us, it's  
19 consistent with what other people told us the  
20 night -- the night and into the morning.

21 Q. And just to give the Court some  
22 perspective; was it the summer of 2011 when  
23 Mr. Bohon passed away?

24 A. Yes, it was.

25 Q. And at the time that Mr. Burns was



1 interviewed on March 28th of 2013, was he still in  
2 the distribution network?

3 A. He was.

4 Q. What statements did Mr. Burns make  
5 regarding distribution within the last couple of  
6 weeks prior to his arrest?

7 A. He actually listed two people that we  
8 had dealt with in the past; a Matt Giles, and a  
9 girl that he knows named Gretchen. And he said  
10 that he had sold to them in the past couple of  
11 days.

12 Interestingly enough, the morning of  
13 the search warrant, Matt Giles drove by the house,  
14 and we got out and talked to him.

15 Q. Also, what types of controlled  
16 substances was it that he had distributed to them  
17 within the past few weeks before?

18 A. He said he got Suboxone from Heather  
19 Overstreet.

20 Q. And had distributed it to Matt Giles  
21 and Gretchen?

22 A. Right. It says "Gretchen Fielder," but  
23 I think her name is Gretchen Staton.

24 Q. Are both Matt Giles and Gretchen Staton  
25 individuals that have testified in grand jury?

1 A. They are.

2 Q. Now, regarding the state search warrant  
3 that you conducted --

4 A. Okay.

5 Q. -- will you inform the Court what you  
6 found?

7 A. I can go through it.

8 The search warrant at his -- 414 West  
9 Franklin Street, in Bedford City, we executed  
10 approximately 7:30. The first item we found was a  
11 hypodermic needle, which was under the driver's  
12 seat of a white Mazda Miata that was parked in the  
13 garage. There was also a spoon with residue  
14 underneath it.

15 Q. Now, did you field test the spoon?

16 A. No, we didn't. We traditionally send  
17 the whole thing off. It's all -- it's not -- it's  
18 really difficult to test stuff like that, because  
19 it's all -- I call it "crumbly." I know that's  
20 not a proper term, but it crumbles. It's not real  
21 easy to test.

22 Q. And tell the Court why, because I  
23 mean -- how long have you been employed with the  
24 Bedford County Sheriff's Department?

25 A. Since 2006.

1 Q. And --

2 A. No, 1996. Time flies when you're  
3 having fun.

4 Q. And also, how long were you actually an  
5 ATF Task Force Officer?

6 A. I think three years.

7 Q. And then did you work in Vice as well?

8 A. I did.

9 Q. So have you been doing drug  
10 investigations for a long time?

11 A. Too long, yes, ma'am.

12 Q. And with your training and experience,  
13 would you please tell the Court why you don't  
14 field test things sometimes?

15 A. The reason we don't field test,  
16 particularly in spoons and things like that, is we  
17 prefer packaging them as is, which gives the lab  
18 more opportunity and more substance to actually  
19 test.

20 Q. Is the lab typically something that is  
21 more -- you rely upon the result of the lab more  
22 than you would a field test?

23 A. Absolutely. That's what we can take to  
24 court.

25 Q. Lab analysis?

1 A. Lab analysis.

2 Q. Now, going on to Number 16 and Number  
3 20 and Number 22, will you also inform the Court  
4 what else was found?

5 A. All right. Number 16, there were  
6 multiple needles. Again, that's the garage  
7 outbuilding. And it was behind the entertainment  
8 center.

9 You said 17?

10 Q. No, 16 -- I'm sorry. Number 19, 20 and  
11 22.

12 A. All right. In the bedroom, we found a  
13 pill container that had an actual marijuana  
14 smoking device. Also found a metal spoon with  
15 residue.

16 Q. And where was that metal spoon with  
17 residue found?

18 A. Inside the bedroom.

19 Q. And when you say, "the bedroom," whose  
20 bedroom?

21 A. Based on what we found in there, the  
22 clothing and things like that, it looked like Mr.  
23 Burns and his wife.

24 Q. So it appeared to be the master bedroom  
25 of the house?

1           A.       Right.  There were male and female  
2       clothes.

3           Q.       Were there other individuals in that  
4       house?

5           A.       There were --

6           Q.       Two minors?

7           A.       Yeah, children, like small children.

8           Q.       What about Number 22?

9           A.       Twenty-two is the cellophane wrapper  
10       that had been melted.  It had four round pills.  
11       It was in the bedroom as well.

12          Q.       Was that in a prescription bottle?

13          A.       No, it was not.

14          Q.       Do you know what those pills are at  
15       this time?

16          A.       I do not.  We sent those to the lab,  
17       too.

18          Q.       Now please go to Number 27 and Number  
19       28.

20          A.       Okay.  Twenty-seven, I noted was empty  
21       heroin bags in the front seat of the pickup.

22          Q.       And I'm going to stop you there  
23       because -- let's talk about the empty heroin bags.

24                   Why did you put on here, empty heroin  
25       bags?

1           A.       Just based on the experience that I've  
2           had, it was -- they were consistent with the way  
3           heroin is packaged.

4           Q.       Which is what?

5           A.       Basically what they do, the best way to  
6           put it is if you take a BC powder, the way the BC  
7           powder is done and cut it in about a half, they'll  
8           actually make their own bags.

9                    These were actually, like, a light blue  
10           color. But they're small. The best way to  
11           describe it is, once you see a baggy that has  
12           heroin in it, it's kind of -- it's consistent. I  
13           guess, the best way to give you perspective is,  
14           I've probably seen 100, 150 cases of heroin that  
15           I've worked. And every single time that I've  
16           identified it as something that contained heroin,  
17           sure enough it was.

18                   In this case, it's even further by the  
19           fact that I had the informer saying that he took  
20           the money that he got from the insurance  
21           settlement, and bought heroin with it.

22           Q.       Did you also have admissions from Mr.  
23           Burns that he's a heroin user?

24           A.       Yes, ma'am.

25           Q.       Now, did you field test those heroin

1 bags?

2 A. No. Again, we sent them to the lab.

3 Q. And why didn't you field test them?  
4 Were they empty?

5 A. They were -- yeah, there was no  
6 quantity inside of it. So we sent them all. We  
7 packaged them altogether, with the hopes that the  
8 lab would be able to extract the substance out,  
9 and identify it.

10 Q. And what about Number 28?

11 A. Twenty-eight, is a pill bottle with  
12 marijuana seeds that was found in the bedroom.

13 Q. And also, what about -- just explain to  
14 the Court the residence, and how everything is set  
15 up? Are they close in proximity?

16 A. To the children's room?

17 Q. The outbuilding, the -- I mean, they're  
18 all on the same property?

19 A. Yeah. I mean, it's probably from their  
20 front door -- I guess to give you perceptive, it  
21 was a pickup truck that was parked in the  
22 driveway.

23 If you are at the back of the pickup,  
24 if you go out the front door at the back of the  
25 pickup, the front of the truck would be at the

1 front of the garage. So about the length of the  
2 truck from door to door on those buildings.

3 Q. So not very far?

4 A. No.

5 Q. Is this like a mansion?

6 A. No, far from it.

7 Q. And would it be safe to say that the  
8 children are in this house on a full-time basis?

9 A. It would.

10 MS. NEESE: No further questions at  
11 this time, Your Honor.

12 THE COURT: All right.

13

14 C R O S S - E X A M I N A T I O N

15 BY MR. GRIMES:

16 Q. Deputy Reynolds, good morning, sir.

17 A. Good morning, sir.

18 Q. I believe I may have talked with you  
19 the other day about this case by telephone.

20 A. Yes.

21 Q. If my memory serves.

22 A. Yes. I apologize, yes, sir.

23 Q. So you wrote the search warrant, which  
24 is Exhibit 6. And do you have that before you?

25 A. I don't. I think the Government has



1 it.

2 Q. All right. Let me show you my copy  
3 here.

4 A. Okay.

5 Q. Here's the search warrant. And for the  
6 record, I'm on the first page of Exhibit 6, Your  
7 Honor.

8 This search warrant was written on  
9 March 26, 2013. And the subject of the search  
10 is -- concerns obtaining money by false pretenses.  
11 And there's a statute cited, Code of Virginia,  
12 Section 18.2 -- I can't read the numbers, sir.

13 A. It's 18.2-178.

14 Q. All right. So you wrote the search  
15 warrant to look for evidence of a crime of  
16 obtaining money by false pretenses, correct?

17 A. Correct.

18 Q. All right, sir. And you wrote that  
19 search warrant five days after Mr. Burns had been  
20 indicted by the federal court grand jury, correct,  
21 sir?

22 A. That's correct.

23 Q. All right. And was that one way of  
24 getting around the federal government complying  
25 with the Federal Rules of Criminal Procedure,

1 through the Federal Rules of Criminal Discovery,  
2 having the State issue the search warrant to look  
3 for evidence of obtaining money by false  
4 pretenses?

5 A. I'm not really sure what that -- I  
6 mean, you're telling me something, not asking me a  
7 question.

8 Q. I was asking you a question. I was  
9 asking a question.

10 You knew that Mr. Burns had been  
11 indicted on or about March 21, 2013 by the federal  
12 grand jury, correct?

13 A. Correct.

14 Q. And when you interrogated Mr. Burns,  
15 about the time of executing the search warrant,  
16 how much time did you spend talking with him?

17 A. You said when I interrogated him?

18 Q. Whoever, whoever interrogated him. You  
19 were reading from notes there earlier, sir.

20 A. Right. I didn't interrogate anybody.  
21 I interviewed somebody.

22 Q. Interviewed Mr. Burns. Okay.

23 You've interviewed Mr. Burns, and you  
24 spent about how much time interviewing him?

25 A. I meant, I talked to him for a brief

1 period.

2 Q. A brief period of time. And you asked  
3 him a lot of questions about drug distribution and  
4 use, didn't you?

5 A. No. My concern was the Walker .22  
6 caliber pistol, which I noted the serial number.

7 Q. Now wait a minute. On direct  
8 examination, didn't the United States ask you  
9 whether you asked Mr. Burns about drug use and  
10 distribution?

11 A. I think they asked me if anyone from  
12 the government had asked him about that. I was  
13 referring -- the information I provided there was  
14 Investigator Cook interviewed him.

15 Q. When was Mr. Burns charged by the  
16 Bedford authorities with obtaining money by false  
17 pretenses?

18 A. He wasn't. This was an investigative  
19 search warrant.

20 Q. So now you're telling the Court that  
21 he's never been charged with obtaining money by  
22 false pretenses, correct, sir?

23 A. I'm saying that we wrote the search  
24 warrant for obtaining money by false pretense.

25 Q. Are you also saying Mr. Burns has never

1       been charged with obtaining money by false  
2       pretenses?

3           A.       I don't have his criminal history. So  
4       if you're asking me, has he ever been charged, I  
5       don't know.

6           Q.       Sir --

7           A.       I know that we had an investigation in  
8       reference to insurance fraud. The information  
9       came to me through interviewing witnesses. And  
10      that's what the search warrant was written for.

11          Q.       Has Mr. Burns been charged, as a result  
12      of this search, with obtaining money by false  
13      pretenses?

14          A.       Not at this time.

15          Q.       And the scope of the search is defined  
16      here. Did you write this?

17          A.       I did.

18          Q.       You were looking for a pistol, a  
19      fireproof safe, digital storage media, a personal  
20      check for \$5,700 made payable to Remodeling USA  
21      financial records and Social Security cards  
22      belonging to Tara Burns and Les Burns, correct?

23          A.       That's correct.

24          Q.       And with those items you see drug  
25      paraphernalia, didn't you?

1           A.       Yeah, we're not allowed to leave  
2       contraband in the house.  It's against the law.

3           Q.       I see.  But Item 16 on your  
4       inventory -- do you have your inventory or did I  
5       take it?

6           A.       I've got it right here.

7           Q.       Item 16 on the inventory says that  
8       multiple needles were found in the outbuilding  
9       behind the entertainment center?

10          A.       Correct.

11          Q.       What did you have to do to get to them?

12          A.       What do you mean, "to get to them?"

13          Q.       Well, "behind the entertainment  
14       center," the entertainment center is in the  
15       garage?

16          A.       Right.

17          Q.       What did you have to do to get to the  
18       needles?

19          A.       We had to crawl back there and get  
20       them.

21          Q.       Crawl back behind the entertainment  
22       center?

23          A.       Uh-huh.

24          Q.       And then were they on the floor?

25          A.       I mean, they were behind the

1 entertainment center.

2 Q. Laying on the floor; taped to the wall;  
3 in a cabinet; in a book shelf or where? And if  
4 you don't know, just says, "I don't know?"

5 A. I mean, my notes say they were behind  
6 the entertainment center. That's all I know.

7 Q. What's the source of your information?

8 A. I wrote it. When people recover it, we  
9 record it. And that's what happened.

10 Q. Oh, got you. So they weren't in plain  
11 view?

12 A. No, sir.

13 Q. But they were seized anyway, correct?

14 A. Yes, sir. We can't leave contraband.

15 Q. I see. All right. Now, who was with  
16 you during the search?

17 A. It was myself, Officer Dryden. I think  
18 a couple of the agents that assisted in the arrest  
19 were there for a certain period of time.

20 Q. What are their names?

21 A. Special Agent Davidson, Russell  
22 Davidson.

23 Q. Special Agent with what authority?

24 A. Alcohol, Tobacco and Firearms, ATF.

25 Q. A federal agency, correct?

1 A. That's correct.

2 Q. Who else?

3 A. And then Officer Dryden from the City  
4 Police Department.

5 Q. You said a couple of special agents.  
6 Who was the other special agent?

7 A. I think -- I don't know his full name.  
8 He goes by "Lucky."

9 Q. Who's he with, AFT or DEA?

10 A. ATF.

11 Q. Who invited the federal agents to  
12 participate in the state search for evidence of  
13 obtaining money by false pretenses?

14 A. Who invited them?

15 Q. Yes. How did they know to be there?

16 A. We picked them up on federal charges,  
17 and that's why the federal agents were there.

18 Q. You picked who up on federal charges?

19 A. Mr. Burns. We arrested them. They  
20 were there. We traditionally work well with each  
21 other. They assisted us in the search.

22 Q. So this was a joint arrest involving  
23 state and federal authorities --

24 A. Correct.

25 Q. -- while an indictment was pending

1 against Mr. Burns in federal court?

2 A. The indictment wasn't pending. It was  
3 being searched.

4 Q. Sir, the indictment was filed March 21,  
5 2013. Do I need to show it to you?

6 A. No.

7 Q. The United States Attorney just asked  
8 you about Item 28 on your inventory.

9 A. Correct.

10 Q. Sir, I don't even have an Item 28. If  
11 the Court will look at Exhibit 6, it just goes to  
12 27.

13 A. Okay.

14 Q. When was Item 28 added to the  
15 inventory?

16 A. I guess it was after we dropped that  
17 copy off. But I know it's on the certified  
18 return, if you want to see that.

19 Q. When was Item 28 added to the  
20 inventory, and who added it?

21 A. I added it.

22 Q. When did you do that?

23 A. At his house, when we served the search  
24 warrant.

25 Q. What is Item 28?



1           A.       Filled bottle with marijuana seeds. It  
2 was recovered in the bedroom.

3           Q.       When did you form the intent to add  
4 Item 28 to the search warrant -- search warrant  
5 return?

6           A.       Formed the intent to do?

7           Q.       When did you decide to add Item 28?  
8 When did you say, "I've already added 27 things.  
9 I need to add one more?"

10          A.       If you're trying to say that I just  
11 added something on a whim, I added it at the  
12 house. We have a four copy return. Okay? Three  
13 pieces of paperwork on these inventory lists.  
14 Okay? I left two copies at that house. Okay?

15                   When I filled out the return, and when  
16 I have my inventory list right here, that looks  
17 just like yours, except it has an Item 28, I  
18 filled it out at the house.

19          Q.       Did you leave at the house, and you're  
20 talking about the Burns' house, this inventory,  
21 which only had 27 items on it?

22          A.       Yes, I did.

23          Q.       And later you added Item 28, correct?

24          A.       This -- the official return shows Item  
25 28 added. My list has Item 28 on it.

1           Q.       Let me go back to the questioning from  
2           the United States Attorney about the events of  
3           March 8, 2013, which for the record is Count 22 of  
4           the superceding indictment, the alleged  
5           distribution of Suboxone, a Scheduled 3 controlled  
6           substance.

7                   What's the quantity of drugs involved  
8           in that particular transaction?

9           A.       I wasn't there, and I don't know.

10          Q.       You don't know?

11          A.       I don't.

12          Q.       If Investigator Cook testified under  
13          oath on March 28, 2013, that two to three pills of  
14          Suboxone was involved, do you have any reason to  
15          disagree with that testimony?

16          A.       No, sir.

17          Q.       All right. Now, let me ask you about  
18          this 16-year-old minor you've been talking about.  
19          Her name is Samantha. I won't use the last name.  
20          Is it?

21          A.       It is.

22          Q.       And her parents are two of the people  
23          charged as codefendants in the superceding  
24          indictment filed by the United States, aren't  
25          they?

1 A. It is.

2 Q. What are their name?

3 A. It's George Lentz (ph).

4 Q. And? How about Dana Michelle Parker?

5 A. Dana Parker, yes.

6 Q. They're the parents of the 16-year-old  
7 you're telling us about, correct?

8 A. That's correct.

9 Q. And Dana Parker and George Lentz are  
10 both drug dealers, aren't they?

11 A. Yes, sir, they are. But they didn't  
12 inject their daughter. Your client did.

13 Q. You know what they did?

14 A. Correct?

15 Q. At all periods of time?

16 A. I mean, I don't know everything they  
17 did, but I know what they've told me and what  
18 other witnesses told me.

19 Q. Uh-huh. And at some point in time, you  
20 testified that an SD card, which is a recording  
21 card, was removed from a recording device used in  
22 a drug transaction; is that correct?

23 A. Correct.

24 Q. And that's when things went south for  
25 Mr. Burns, didn't they?

1           A.       Well, I think that was one of the  
2       contributing factors, yes, sir.

3           MR. GRIMES:   Nothing further, Your  
4       Honor.

5           THE COURT:   Okay.

6           MS. NEESE:   Briefly, Your Honor.

7

8           R E D I R E C T       E X A M I N A T I O N

9       BY MS. NEESE:

10          Q.       George Lentz is not Samantha's father,  
11       is he?

12          A.       Not biological father, no.

13          Q.       They're not even married, are they?

14          A.       No, ma'am.

15          Q.       She didn't even live with them, did  
16       she?

17          A.       No.

18          Q.       Did she actually have another father  
19       who -- and has another set of grandparents that  
20       she was residing with at the time?

21          A.       I think they lived -- yes, ma'am.

22          Q.       And Dana Parker is her mother?

23          A.       She is.

24          Q.       And she is charged?

25          A.       She is.

1 Q. And she's a self-admitted drug  
2 distributor, correct?

3 A. Yes, ma'am.

4 Q. And the 16-year-old has actually stated  
5 she's gotten pills from her mother, too, correct?

6 A. Yes, ma'am.

7 Q. Now, did the 16-year-old make any  
8 hesitation in stating who injected her with pills?

9 A. No, she didn't.

10 Q. And who was that?

11 A. Mr. Burns.

12 Q. Now, Amanda McKinney, has she stated  
13 now that she was injected with pills by Mr. Burns?

14 A. Yes, ma'am.

15 Q. Are her parents charged in this?

16 A. No, ma'am.

17 Q. Are her parents charged drugs dealers  
18 in any way?

19 A. No, ma'am.

20 Q. What about Jonathan Bohon; were his  
21 parents charged in this?

22 A. No, ma'am.

23 Q. Okay. Now going back to the questions  
24 that you were asked regarding whether the federal  
25 government was involved in the search. Does the

1 federal government and the state authorities, do  
2 they work together quite frequently whether or not  
3 it's a state investigation or a federal  
4 investigation?

5 A. I think the federal government gets  
6 most of their cases.

7 Q. They get a lot of cases; is that  
8 correct?

9 A. Yes, ma'am.

10 Q. The insurance fraud, in any way, by  
11 obtaining money by false pretenses, was that  
12 related to this case whatsoever?

13 A. No.

14 Q. So, I mean, did you need to go get a  
15 federal search warrant?

16 A. No. Like I said, the only thing I  
17 wanted to do is to try to locate that firearm.

18 Q. And in regarding once you get a search  
19 warrant, and including -- were some of the things  
20 you were looking for, financial records?

21 A. Yes, ma'am.

22 Q. A piece of paper?

23 A. Yes, ma'am.

24 Q. Could that have fallen behind the  
25 entertainment center?

1 A. Yes, ma'am.

2 Q. Were you entitled to look anywhere  
3 where a piece of paper could have been?

4 A. Yes, ma'am.

5 MS. NEESE: No further questions, Your  
6 Honor.

7 THE COURT: All right. Thank you, sir.  
8 You may step down.

9 All right. Any other evidence?

10 MS. NEESE: Your Honor, we'll submit  
11 the pretrial services report as written,  
12 unless the defense counsel wants us to put the  
13 probation officer on.

14 MR. GRIMES: No, Your Honor.

15 THE COURT: Okay. We'll admit it.

16 Okay. Mr. Grimes, do you have any  
17 evidence?

18 MR. GRIMES: Some, Your Honor, yes.

19 I'll call Gina Smith.

20

21 GINA SMITH,

22 was duly sworn and testified as follows:  
23  
24  
25

1                   D I R E C T       E X A M I N A T I O N

2       BY MR. GRIMES:

3           Q.       Ms. Smith, tell us your name?

4           A.       Gina Kristin Smith (ph).

5           Q.       Your last Christopher's -- you're  
6       Christopher Burns' mother?

7           A.       I am.

8           Q.       And he goes by "Chris?"

9           A.       He does.

10          Q.       All right. You have another son?

11          A.       Jonathan Burns.

12          Q.       All right. How old is Chris, and how  
13       old is your other son?

14          A.       Chris is 30, and I think my other son  
15       is 28 or 29.

16          Q.       And you know your son is married to his  
17       wife, who's in the courtroom. What's her name?

18          A.       Tara Burns.

19          Q.       And they have two children?

20          A.       Yes.

21          Q.       Let me get you to maybe --

22          A.       Sorry.

23          Q.       All right. How long have they been  
24       married?

25          A.       Five or six years, I think.



1 Q. Let me ask you just a bit about your  
2 son's childhood, and his relationship with his  
3 father. Tell the Court about that?

4 A. His father was mentally, physically,  
5 verbally extremely abusive.

6 Q. Was his father involved with drugs?

7 A. Yes, he was.

8 Q. Did his father expose Chris to drugs?

9 A. Yes, he did.

10 Q. In what way?

11 A. He would have him divvy up and  
12 distribute around the age of 12, I believe, while  
13 he would go to the bar next door. And other  
14 people would come over, and he would have to give  
15 them the drugs.

16 Q. And this occurred when he was a child;  
17 when Chris was a child?

18 A. It was.

19 Q. Now, there's evidence that Chris has  
20 had a multi-year problem with prescription drugs;  
21 would you agree with that?

22 A. Yes.

23 Q. At the end of the day, do you want to  
24 see him get help for his drug problem?

25 A. Of course.

1 Q. All right. Is Chris a good father?

2 A. He is a very good father. He loves his  
3 children.

4 MR. GRIMES: All right. That's all for  
5 now. Would you answer any questions that the  
6 United States Attorney or Judge Moon may have?

7

8 C R O S S - E X A M I N A T I O N

9 BY MS. NEESE:

10 Q. Ms. Smith, good morning. Does it  
11 concern you that your son is a self-admitted drug  
12 user?

13 A. Yes, it does. I love him. He's my  
14 son.

15 Q. And also, that he's distributed drugs,  
16 too; does that concern you?

17 A. Yes.

18 Q. Even around places where your  
19 grandchildren are located?

20 A. Yes.

21 Q. What about, he has another child, too;  
22 is that correct?

23 A. He does.

24 Q. And where does that child live?

25 A. Wisconsin.

1 Q. Wisconsin? And does it concern you  
2 that he's behind on his child support, \$18,000?

3 A. Yes.

4 MS. NEESE: No further questions, Your  
5 Honor.

6 THE COURT: All right. Thank you.  
7 You may step down. Thank you.

8 MR. GRIMES: No additional evidence for  
9 today's hearing.

10 THE COURT: Okay. You may be heard.

11 MS. NEESE: Your Honor, just briefly, I  
12 don't want to rehash everything. But just  
13 going through the conditions and why we're  
14 here today, the presumption is that he should  
15 be detained based on the drug trafficking  
16 offense that he's charged in -- or the  
17 superceding indictment that he's charged on  
18 two counts, lays the burden on the defendant.

19 Additionally, there's all this other  
20 evidence that we've set forth under the 3142  
21 factors; and the nature and circumstances of  
22 the offense charged. It is conspiracy to  
23 distribute. He has made post-Miranda  
24 admissions. And additionally, numerous other  
25 witnesses have made -- or have provided

1 testimony and/or statements regarding his  
2 involvement in this distribution network.

3 The weight of the evidence, we submit,  
4 is very strong against Mr. Burns, since he did  
5 make post-Miranda admissions. And also since  
6 he was involved in a recorded phone call on  
7 March 8, 2013.

8 And additionally, he was involved in  
9 that transaction of Suboxone. And that also  
10 with the other witnesses who have testified.

11 Going to the history and  
12 characteristics of the defendant, we would  
13 note several things. First, he is, as his  
14 mother even testified, he's been someone who  
15 has used drugs for a really long time. And  
16 that should be taken into consideration by the  
17 Court.

18 Additionally, he is a distributor. You  
19 go to the information about his liabilities;  
20 you have the child support arrearages and  
21 other liabilities that he's not paying, but  
22 he's able to purchase drugs on the street.  
23 Additionally, you go to his own statement  
24 about how he was distributing Suboxone until  
25 at least a week or two before his arrest.

1                   You have the search warrant that was  
2                   executed at the house and in the outbuildings.  
3                   And you have numerous drug paraphernalia that  
4                   were found there on that day.

5                   And additionally, he was on state  
6                   probation at the time of the offense. And  
7                   it's noted in the pretrial services report, or  
8                   at the time of part of the offense, at least.

9                   Then you go to the nature and  
10                  seriousness of the danger to any person in the  
11                  community. And he's a distributor of pills.  
12                  He's injected numerous people, including a  
13                  16-year-old minor, with pills. And he also  
14                  has children in his house. We submit that  
15                  there's overwhelming evidence, and that they  
16                  have not overcome the burden to release Mr.  
17                  Burns.

18                  THE COURT: All right.

19                  MR. GRIMES: And we submit to the  
20                  contrary, Your Honor.

21                  I'll point out two things with respect  
22                  to the strength of the Government's case. In  
23                  due course, of course, the defense will file a  
24                  motion to dismiss. The United States  
25                  Attorney, as an officer of the court, told

1 Mr. Burns on December 20, 2012, "You are not a  
2 target of the investigation. If you were a  
3 target of the investigation, we would notify  
4 you that you are a target of an investigation.  
5 And if you're qualified then, you receive  
6 court appointed counsel."

7 The United States Attorney, as an  
8 officer of the court, made that representation  
9 on the record.

10 THE COURT: Do you have evidence that  
11 he was a target at that time?

12 MR. GRIMES: Not at that time.

13 THE COURT: If she's not telling a lie,  
14 I mean, what difference does it make? People  
15 could become a target.

16 MR. GRIMES: That's right. And if he  
17 becomes a target, then we'll let you know that  
18 you're a target. And if you're qualified,  
19 then you will receive court appointed counsel.

20 We're saying he was a target at that  
21 time. He became a target, obviously later.  
22 He testified on March 21, 2013, and was  
23 indicted five days later.

24 So we'll file a motion to dismiss on  
25 that.

1 MS. NEESE: Your Honor, I'll object to  
2 that statement. It was a month later, a month  
3 and five days.

4 THE COURT: That would go to the  
5 admissibility of whatever his testimony was.

6 MR. GRIMES: We'll address that in due  
7 course. The second thing we'll address in due  
8 course, is the United States and Bedford  
9 County's issuance of a search warrant  
10 ostensibly to look for evidence of obtaining  
11 money for false pretenses --

12 THE COURT: Was there not probable  
13 cause to search for the gun that was reported  
14 stolen or whatever?

15 MR. GRIMES: We don't know that, Your  
16 Honor. That's beyond the scope of today's  
17 hearing. But under federal law --

18 THE COURT: They had probable cause to  
19 search the house. I mean, and they conducted  
20 the search with a search warrant, why is  
21 that -- what's wrong with that?

22 MR. GRIMES: Because, as we'll brief it  
23 when we file the motion, Your Honor --

24 THE COURT: But we don't have that. So  
25 I don't see how I can give any weight. I

1 can't cast dispersions on the search if I  
2 don't know that there was something wrong with  
3 it.

4 MR. GRIMES: What's wrong with it --

5 THE COURT: The face of it is, it's  
6 okay.

7 MR. GRIMES: Well, we'll brief it in  
8 due course. But while an indictment is  
9 pending, the Government can't issue a search  
10 warrant, Your Honor. They have to proceed  
11 through the rules of criminal procedure, and  
12 specifically, Rule 16. We'll brief that in  
13 due course for the Court.

14 But all of that goes to the strength of  
15 the Government's case. What you have here, at  
16 the end of the day, is a gentleman who is a --  
17 I don't know if "life-long" is the right word,  
18 but since his teenage years, a user and abuser  
19 of prescription drugs.

20 Now, this is not the Court's first time  
21 at the rodeo, and not the first time you've  
22 seen those facts. I mean, my word, that,  
23 perhaps is the most common fact pattern in  
24 federal court; someone's a user of  
25 prescription drugs. And no question about



1 that whatsoever.

2 Things went south for Mr. Burns when an  
3 SD card came up missing that allegedly had  
4 recordings of his conversations with Officer  
5 Cook or other drug transactions; that came up  
6 missing. And then they cut him loose. They  
7 cut him loose.

8 And if you look at the substantive  
9 charge, in essence, there's only one count and  
10 it's Count 22. It's distribution of two or  
11 three Suboxone pills, Your Honor. That's it.  
12 That's what they've got him on, and that's why  
13 they indicted him in March of this year.

14 There's no evidence, insufficient  
15 evidence he's a danger to society or himself.

16 THE COURT: Well, what about the  
17 evidence? I thought other people said he  
18 distributed drugs.

19 MR. GRIMES: Other people have said  
20 that for the purpose --

21 THE COURT: What is that not evidence?

22 MR. GRIMES: It is evidence for today's  
23 hearing, Your Honor. But that was all  
24 occurring all along. All along, Your Honor,  
25 he was working as an informant distributing

1 drugs for the Government, buying drugs for the  
2 Government while working as a --

3 THE COURT: Well, I can't find him not  
4 guilty on today, can I?

5 MR. GRIMES: No, of course not.

6 THE COURT: I mean, I don't understand  
7 how I can give much weight either way to what  
8 might potentially come out at another hearing.

9 MR. GRIMES: We agree, Your Honor. For  
10 the purpose of today's hearing, from the  
11 United States or the defense, that could be  
12 little more than a proffer. I mean, that's  
13 about all we can do in a bond hearing, a  
14 detention hearing, if you will.

15 But what we're here for today is to ask  
16 whether there are conditions of release that  
17 would be appropriate; and we submit there are.

18 We ask the Court to order bond; take  
19 note of the fact that many of these people who  
20 are doing exactly the same thing are out on  
21 bond. The Court has permitted bond for them.  
22 And we ask for bond of \$25,000, secured bond;  
23 home electronic monitoring, should the Court  
24 feel that it's necessary; and permit him to  
25 remain on bond pending. There's no history

1           that he's a flight risk, or won't show up in  
2           court. No criminal history to speak of.

3           And so what you have, at the end of the  
4           day, is a life-long drug user and abuser of  
5           drugs, who was dealing drugs for the  
6           Government. So we ask for \$25,000 secured  
7           bond.

8           I point out also, and one of the  
9           reasons we appeal is Investigator Cook  
10          testified the needles were found in the house.  
11          They weren't. They were in a garage. And  
12          that was the dispositive factor in Judge  
13          Ballou's mind, if you read his opinion. So  
14          we've addressed that for the Court.

15          The Court's concern is continued  
16          distribution of drugs. And we submit the  
17          conditions of bond could be arranged to permit  
18          him to be released. Thank you, Your Honor.

19          MS. NEESE: Your Honor, may I?

20          THE COURT: Yes.

21          MS. NEESE: Regarding the search  
22          warrant, Your Honor, I think it's been clear  
23          on the record, we're here for a detention  
24          hearing. We're using things from the search  
25          warrant for why --

1 THE COURT: Well, I don't think the  
2 Court can decide or should base anything on  
3 the search warrant as making any assumption  
4 that it -- a bad warrant.

5 MS. NEESE: Exactly, Your Honor. We're  
6 not even asking that here today. The only  
7 reason we're using that stuff is for him to be  
8 detained under the factors. We're not going  
9 to charge any of those on the federal level.  
10 We had no say in what a state magistrate  
11 issues, and what he doesn't issue. In fact,  
12 it's not even related to our case whatsoever.  
13 I don't intend, at any point in time, to  
14 charge anything regarding the things that were  
15 found.

16 What we're using that for is why he  
17 should be detained today, and the factors --

18 THE COURT: Was the gun found?

19 MS. NEESE: The gun has not been found,  
20 Your Honor. And, in fact, if his wife would  
21 have taken the stand today, she also made  
22 admissions on that day. And I won't proffer  
23 those admissions at this point in time. But  
24 it has not been found.

25 Now we're talking about a conspiracy

1 case as well. He's only pointing out that,  
2 yes, on March 8th of 2013, a couple of  
3 Suboxone pills. That doesn't include all the  
4 admissions he's made and the numerous other  
5 witnesses that have testified he's been  
6 distributing drugs for a certain period of  
7 time for at least two to three years. One  
8 date is just a substantive offense. A  
9 conspiracy encompasses three to four years of  
10 this ongoing activity by this distribution  
11 network in Bedford.

12 Additionally you've heard evidence that  
13 he was playing both sides. He was basically  
14 going and not distributing drugs for the  
15 Government, but he was actually purchasing  
16 drugs for the Government with controls in  
17 place. And then he was distributing on the  
18 side. And he told at least two witnesses,  
19 Amanda McKinney and Scotty Andrews, "Hey, this  
20 is what I'm going to do, and this is how I'm  
21 basically using the system by pretending like  
22 I'm working for them, then I'm doing this on  
23 the side."

24 All of this was found out. And, at the  
25 time, in December of 2012, we didn't

1 understand his role in this because we didn't  
2 know as much about him, and we hadn't talked  
3 to as many witnesses about him. And the  
4 discovery has been turned over. And after  
5 December 20th of 2012, is when he became a  
6 target in this investigation.

7 Now, granted, if I said, he would  
8 receive a target letter, he would have if we  
9 would have wanted to notify him. We don't  
10 have to notify every target that they're going  
11 to be a target of an investigation. He was  
12 notified that he was no longer going to be a  
13 confidential informant.

14 But regardless of that, in the grand  
15 jury he was never asked truly about his own  
16 distributions. All he was asked about were  
17 other people's that were targets of the  
18 ongoing investigations.

19 THE COURT: All right. First, I find  
20 there are no conditions or combination of  
21 conditions to reasonably assure the safety of  
22 the community.

23 Now, considering the defendant's  
24 history, I mean, he has a long history of  
25 addiction and abuse. And I don't know of

1 anyone that's a worse risk of committing a  
2 crime than somebody, a drug abuser and someone  
3 addicted.

4 I mean, it's just that he might not --  
5 further distributes or not, but he's going to  
6 be looking for it. And I'm impressed by the  
7 fact that there's no evidence that he has a  
8 stable home to go to, where he doesn't rule  
9 the roost.

10 I mean, his mother's testified that his  
11 father used him to sell drugs. And it seems  
12 to me that she was around. I don't know what  
13 sort of influence she would exercise over him.  
14 And apparently his wife, she knew what he was  
15 doing, and she didn't exercise any control  
16 over his activity when they were living at  
17 home together.

18 I think he's a high risk of trying to  
19 obtain drugs. And I don't know what he'll do  
20 to pay for them. He may have to sell or trade  
21 to pay for them, but anyway he hasn't rebutted  
22 the presumption that he's at risk to the  
23 safety.

24 And here, you take the fact he was on  
25 State Probation at the time he was committing

1           these crimes, alleged crimes, and I'll say  
2           he's obviously presumed innocent at this  
3           point.

4                   But the strength of the evidence just  
5           seems to be very strong. And, I mean, we hear  
6           that he's confessed. And the other people  
7           have said he had committed the crime. And  
8           that he's engaged not just in distribution,  
9           but runs a high risk activity of shooting up a  
10          16-year-old. And rather blatant about his  
11          violation and was conducting part of it while  
12          he was supposedly working and deceiving the  
13          police as an undercover agent.

14                   But just the bottom line is, as I've  
15          said before, I don't think there are any  
16          conditions or combination of conditions to  
17          assure the safety of the public.

18                   Anything else?

19                   MR. GRIMES: Nothing, further Your  
20          Honor.

21                   MS. NEESE: No, Your Honor.

22  
23                   (Hearing concluded at 10:48 a.m.)

24                                   \* \* \* \* \*

25

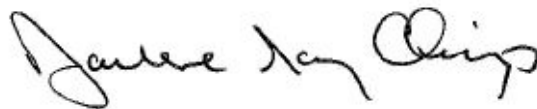


1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

2 I, Darlene Joy Owings, Notary Public in  
3 and for the Commonwealth of Virginia at Large, and  
4 whose commission expires May 31, 2014, do certify  
5 that I was the court reporter at the  
6 aforementioned proceedings and that the foregoing  
7 is a true, correct, and full transcript of the  
8 proceedings herein.

9 I further certify that I am neither  
10 related to nor associated with any counsel or  
11 party to this proceeding, nor otherwise interested  
12 in the event thereof.

13 Given under my hand and notarial seal  
14 at Charlottesville, Virginia, this 17th day of  
15 February, 2014.

16  
17  
18 

19  
20 Darlene Joy Owings, Notary Public

21 Notary Registration No. 321187

22 Commonwealth of Virginia at Large  
23  
24  
25

**WORD  
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